

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN DONALD KELSO,

Defendant.

Case No. 3:15-cr-00089-MMD-VPC

ORDER

Before the Court is Defendant John Donald Kelso's Unopposed Motion Pursuant to 18 U.S.C §§ 4241 and 4242 for Evaluation to Determine Competency to Stand Trial and Existence of Insanity at the Time of the Offense ("Motion"). (Dkt. no. 10.) The government does not oppose the Motion. (Dkt. no. 12.) Having reviewed Defendant's Motion and counsel's supporting declaration (dkt. nos. 10, 11), the Court grants Defendant's Motion.

The Court finds reasonable cause exists under 18 U.S.C. §4241(a) to believe that Defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. The Court further finds that Defendant has demonstrated reliance on the defense of insanity and good cause under 18 U.S.C. §4242(a) to support Defendant's request for a psychiatric evaluation. Accordingly, the Court orders as follows:

1. In accordance with Title 18, United States Code, Sections 4241, 4242, 4247, and Rule 12.2(c) of the Federal Rules of Criminal Procedure, the United States Marshal Service shall forthwith transport Defendant John Donald Kelso to a suitable BOP facility that conducts psychological evaluations closest to the Court, for psychiatric

1 or psychological evaluation to determine whether (a) Defendant may presently be
2 suffering from a mental disease or defect rendering him mentally incompetent to the
3 extent that he is unable to understand the nature and consequences of the proceeding
4 against him or to assist properly in his defense; and (b) whether he was insane at the
5 time of the offense.

6 2. Defendant shall be held in said facility for a reasonable period of time, not
7 to exceed forty-five (45) days, unless extended by further order of the Court upon
8 showing good cause by the Director of the said facility or pursuant to other appropriate
9 motion for a period of up to thirty (30) additional days. 18 U.S.C. §4247(b).

10 3. The examination shall be conducted by one or more licensed or certified
11 psychiatrists or clinical psychologists. 18 U.S.C. §4247(b).

12 4. Within forty-five (45) days from the date of entry of this Order, or such
13 additional period as may be ordered by the Court, the Director of the said facility at
14 which the examination has been conducted shall prepare, or cause to be prepared, a
15 psychiatric or psychological report to the Clerk of the United States District Court for the
16 District of Nevada, to the United States Attorney's Office for the District of Nevada, 100
17 West Liberty Street, Suite 600, Reno, Nevada 89501, and to the Federal Public
18 Defender, ATTN: Lauren Gorman, 201 West Liberty Street, Suite 102, Reno, NV 89501.

19 The Court finds that the period of time required by the above-described
20 psychiatric or psychological examination of defendant, and the Court's determination of
21 defendant's competency to stand trial and his sanity at the time of the offense charged
22 is excludable time under the United States Constitution, the Speedy Trial Act, Title 18,
23 United States Code, Section 3161(h)(1)(A), and Rule 5.1 of the Federal Rules of
24 Criminal Procedure.

25 DATED THIS 10th day of November 2015.

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28 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE